

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 2:07-cr-012-MEF
)	
GREGORY LEWIS DAVIS)	

ORDER

On March 20, 2008, the defendant filed an Unopposed Motion to Continue Trial (Doc. #66). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion states defense counsel was retained and filed notice of appearance in this case on March 19, 2008. Counsel has had insufficient time to review evidence including voluminous transcripts of prior hearings and insufficient time to interview witnesses and potential witnesses. In addition, defense counsel received a summons for jury duty in this

court for the term beginning April 7, 2008. Counsel for the government does not oppose a continuance. Consequently, the court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendant in a speedy trial. *See United States v. Davenport*, 935 F.2d 1223, 1235 (11th Cir. 1991)(reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the defendant's motion filed on March 20, 2008 is GRANTED;
2. That the trial of this case is continued from the April 7, 2008 trial term to the July 28, 2008 trial term in Montgomery, Alabama.
3. That the Magistrate Judge conduct a pretrial conference prior to the July 28, 2008 trial term.

DONE this the 25th day of March, 2008.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE